

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
JANUARY 4, 2000**

The one thousand eight hundred and sixth meeting of the Milwaukie City Council was called to order by Mayor Tomei at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Rob Kappa  
Mary King

Larry Lancaster

Also present:

Dan Bartlett,  
City Manager

Tim Ramis,  
City Attorney

Charlene Richards,  
Assistant City Manager

Martha Bennett,  
Assistant City Manager

Jan Gehlen,  
Finance Director

Paul Roeger,  
Civil Engineer

JoAnn Herrigel,  
Program Services Coordinator

Larry Kanzler,  
Police Chief

**Mayor Tomei** announced several changes to the order of business to allow her attendance at the Milwaukie High School Administrative and Counseling Offices dedication ceremony.

**PROCLAMATIONS COMMENDATIONS, SPECIAL REPORTS AND AWARDS**

**Mrs. Milwaukie International 2000 -- Proclamation**

**Mayor Tomei** read a proclamation recognizing Juanita Curry's selection as Mrs. Milwaukie International 2000.

**CONSENT AGENDA**

It was moved by Councilor Kappa and seconded by Councilor King to adopt the Consent Agenda that consisted of:

1. City Council Minutes of December 20, 1999;
2. **Resolution No. 1-2000**: A Resolution of the City Council of the City of Milwaukie, Oregon, Designating the Clackamas Review and the Oregonian as Papers of Record for the City of Milwaukie; and
3. **Resolution No. 2-2000**: A Resolution of the City Council of the City of Milwaukie, Oregon, Designating the First and Third Tuesdays of Each Month as the Regular City Council Meeting Date.

**Motion passed unanimously among the members present.**

## AUDIENCE PARTICIPATION

**Richard Cayo**, 4203 SE Johnson Creek Blvd. He had received a letter from the City stating that the storm water fee was adopted five years ago instead of the two he had stated at an earlier Council meeting. Given that the fee was established five years ago, he would have expected to see more improvements to existing drainage problems such as the one at SE 42<sup>nd</sup> Avenue and Roswell Street.

**Cayo** read a statement into the record on behalf of the "Citizens for the Fiscally Responsible Management of the City of Milwaukie." He maintained that Milwaukie City staff is paid approximately 20% more than other comparable cities. Other cities are vibrant and growing; Milwaukie, however, is not growing. He believed the City was micro-managed with little citizen input, and tax dollars are spent on projects, such as the Safeway site, that go sour.

**Cayo**, as a business owner, was concerned that the business license applications had not been mailed.

**Mayor Tomei** provided Cayo with a packet of information on Council training, the employee selection process, the Cobb property, and a salary survey of comparable cities.

**David Aschenbrenner**, 11505 SE Home Avenue. He encouraged citizens to get involved with their City through such programs as parks and wetlands, downtown/riverfront planning, and boards and commissions.

**Linda Hatlelid**, 8617 SE 36<sup>th</sup> Avenue. She was concerned that the Traffic Safety and Transportation Board (TSTB), Ardenwald Neighborhood, and concerned property owners had been promised since May 1999 that the 40- and 44-foot rights-of-way would be marked on the Johnson Creek Blvd. Improvement Project. She asked why that promise had not been kept. She felt this cast a shadow of doubt on the community as to the Council's representation of its citizens, its credibility, and its effectiveness.

**Bennett** responded that the City of Portland was responsible for right-of-way issues and that she would forward these concerns.

**Bartlett** added that the City of Portland and Clackamas County are the road authority, not the City of Milwaukie.

**Councilor Kappa** commented on the benefits of leadership training for elected officials. He also supported training Council-appointed advisory board members.

**Councilor King** added that networking was very valuable.

The group agreed there was sufficient time to hold the public hearing on the City-wide Vision and Mission prior to Mayor Tomei's leaving the meeting.

## PUBLIC HEARING

### Adopt City-wide Vision and Mission

**Mayor Tomei** opened the public hearing to consider the proposed City-wide Vision and Mission at 6:17 p.m.

The purpose of the hearing was to hear public comment on the proposed Mission and Vision statements. **Mayor Tomei** reviewed the conduct of the hearing.

Staff Report: **Gregory** presented the staff report. She reviewed the process that included the neighborhoods and boards and commissions. The document before the Council was the further refinement based on the previous night's work session comments.

Correspondence: None.

Audience Testimony: **Dave Aschenbrenner**, 11505 SE Home Avenue. He suggested the Mission Statement be: *A great place to live, work, and play.*

Council Comments: None.

Questions of Clarification: None.

Close Public Testimony: **Mayor Tomei** closed the public hearing at 6:20 p.m.

Council Discussion: The group discussed references to environmental sensitivity, and **Councilor Lancaster** noted it was specifically stated in the *Natural Environment* statement.

**Councilor King** was concerned that there be recognition of an anti-discrimination policy and felt it was important to use the phrase "for all citizens" in the *Public Safety* statement.

**Kanzler** said officers are trained in anti-discrimination, and it is part of all state and local law enforcement policies and procedures.

The group agreed to accept the *Natural Environment*, *Transportation*, *Quality Built Environment*, and *Cultural Resources* statements as presented.

The group discussed the *Education* statement. **Councilor Lancaster** felt reference to "all ages and genders" was implicit throughout the document and should be deleted. The others felt it was an important statement to make, and that wording was retained.

The group discussed the *Economic Development* statement and agreed to revise it to read "*The City supports the development of socially responsible business partnerships...*" **Councilor Kappa** expressed concern with how the word "socially" might be interpreted.

The group agreed to accept *Community Building and Communication, Infrastructure, and Fiscal and Organizational Accountability* as written.

The City Council expressed its appreciation to the citizens and staff, particularly Gregory, who spent time helping refine the document.

The group agreed to have the public vote on the Mission Statement via *The Pilot*. The choices would be: A great place to live, or A great place to live, work, and play.

**It was moved by Councilor King and seconded by Councilor Lancaster to adopt the City-wide Vision Statement. Motion passed unanimously among the members present.**

**Councilor Kappa** thanked Councilors King and Lancaster for the work they had done in drafting their ideas for consideration.

**Councilor Lancaster** felt the work was very important to the City's growth and that the Council had adopted a good product.

#### **North Clackamas Parks and Recreation District Board Representative**

City Council concurred with Mayor Tomei's appointment of Councilor Lancaster to fill this position vacated by Councilor Marshall. Councilor Kappa will continue as alternate.

Mayor Tomei excused herself from the meeting to attend the Milwaukie High School Dedication Ceremonies for the new Administrative and Counseling Offices.

#### **Telecommunications Ordinance and Resolution**

**Councilor Kappa** called the public hearing on the telecommunications ordinance and resolution to order at 6:40 p.m.

The purpose of the hearing was to hear public comment on amendments to the Municipal Code that added Chapter 3.13, regulating telecommunication facilities, repealed Chapter 5.16, and repealed and replaced Chapter 12.08 regarding street and sidewalk excavations. **Councilor Kappa** reviewed the conduct of the hearing.

Staff Report: **Herrigel** presented the staff report. The purpose for these changes was to develop a consistent, formal process to deal with franchisees requesting uses in the public right-of-way. This action will also help cover the City's costs and establish a consistent, equitable fee system that is equitable to all applicants. She gave the City Council a brief overview of the process and the fee amounts. Other cities in Oregon, including Eugene, Ashland, and Klamath Falls, have adopted similar ordinances. They have gone unchallenged with the exception of the fee amounts.

**Councilor King** asked if there could be provisions for recovering unusual expenses such as a City Attorney review.

**Herrigel** recommended monitoring the situation and returning to the City Council with a modified fee resolution if necessary.

**Ramis** added that cities have the ability to legitimately recapture their administrative expenses, and fees can be raised once a year.

**Herrigel** want to ensure a process that can be evaluated on a regular basis.

**Councilor Lancaster** asked how the five-year franchise term was determined and what thought process took place.

**Herrigel** said the five-year term was comparatively short and allows the City some flexibility during negotiations.

**Ramis** commented that five years was a very low number in the marketplace. Franchisees want longer terms to add value if the company is sold, but the public wants shorter terms to reflect changing times. He believed that five years was currently the shortest term.

**Bartlett** further explained that businesses want longer terms to recapture capital investments, while the City wants shorter terms to address technological improvements.

**Herrigel** offered to do further research.

**Councilor King** noted that fiber and cell do not pay franchise fees.

**Bartlett** said the City receives monthly lease payments for antenna space on top of the water tower at 37<sup>th</sup> Avenue and Harvey Street.

Correspondence: None.

Audience Testimony: None.

Staff Comments: None.

Questions of Clarification: None.

Close Public Hearing: **Councilor Kappa** closed the public testimony portion of the hearing at 6:55 p.m.

Discussion: No further discussion.

**It was moved by Councilor King and seconded by Councilor Lancaster to read the ordinance adding Chapter 3.13, telecommunications facilities, repealing Chapter 5.16, cable communications systems, and amending Chapter 12.08, street and sidewalk excavations, construction and repair for the first time by title only.**

Motion passed unanimously among the members present. The ordinance was read for the first time by title only.

It was moved by Councilor King and seconded by Councilor Lancaster to read the ordinance adding Chapter 3.13, telecommunications facilities, repealing Chapter 5.16, cable communications systems, and amending Chapter 12.08, street and sidewalk excavations, construction and repair for the second time by title only. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.

It was moved by Councilor King and seconded by Councilor Lancaster to adopt the ordinance adding Chapter 3.13, telecommunications facilities, repealing Chapter 5.16, cable communications systems, and amending Chapter 12.08, street and sidewalk excavations, construction and repair. Motion passed unanimously among the members present.

**ORDINANCE NO. 1866:**

**AN ORDINANCE AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADDING CHAPTER 3.13, "TELECOMMUNICATIONS FACILITIES", REPEALING CHAPTER 5.16, "CABLE COMMUNICATIONS SYSTEMS", AND AMENDING CHAPTER 12.08, "STREET AND SIDEWALK EXCAVATIONS, CONSTRUCTION, AND REPAIR.**

It was moved by Councilor King and seconded by Councilor Lancaster to adopt the resolution establishing permit, registration, and franchise fees for telecommunications carriers occupying City rights-of-way. Motion passed unanimously among the members present.

**RESOLUTION NO. 3-2000:**

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF MILWAUKIE ESTABLISHING PERMIT, REGISTRATION, AND FRANCHISE FEES FOR TELECOMMUNICATIONS CARRIERS OCCUPYING CITY RIGHTS OF WAY.**

**OTHER BUSINESS**

**Report on Snowhill Request for 36<sup>th</sup> Avenue Traffic Calming**

**Bennett** presented the staff report on Dorothy Snowhill's request for traffic calming on 36<sup>th</sup> Avenue. Staff had recommended that the City take no action on the speed humps of 36<sup>th</sup> Avenue even though Providence Milwaukie Hospital had offered to pay up to \$5,000 for installation of traffic calming. At the December 7, 1999 meeting, Snowhill raised some legal issues which the City Attorney reviewed. The staff report contained May 1999 correspondence from Interim Planning Director Jim Crumley stating that the

Hospital was in compliance with all discretionary permits issued from that office. In August 1999, the City Council adopted the Neighborhood Traffic Management Program (NTMP) revisions as recommended by the Traffic Safety and Transportation Board (TSTB) that included a policy and procedure for privately-funded traffic calming projects. She discussed the methodology used to apply points to Neighborhood Traffic Management Program (NTMP). The spreadsheet submitted as part of the staff report showed that the 36<sup>th</sup> Avenue ranked 27<sup>th</sup> on the list of proposed projects.

**Bennett** urged the City Council to adopt findings that would distinguish 36<sup>th</sup> Avenue from other residential streets if it disagreed with the staff recommendation. Staff was concerned that a precedent would be created for waiving an adopted program and policy if the NTMP criteria were waived without findings.

**Ramis** reviewed the language in Snowhill's argument and determined it did not have an effect on the Council's discussion. She contended that there were further limitations on the property, but the language cited was statutory in nature having to do with local zoning regulations.

**Councilor King** asked if findings could be written so as not to set a precedent.

**Bennett** said the site was unique in its proximity to a hospital and related traffic. Based on the most recently adopted NTMP language, privately funded projects were no longer unique because of the adopted policy and procedure for such actions. She noted that only four streets qualified for traffic calming under the new NTMP guidelines, and she had significant concerns about treating 36<sup>th</sup> Avenue differently based on the August NTMP revisions.

**Councilor Lancaster** had not changed his earlier position. He did not believe the Hospital was in the position of being able to change its ambulance operators' access route. Traffic calming on 36<sup>th</sup> Avenue may or may not reduce speeds, but it probably would not reduce volumes.

**Councilor Kappa** concurred with Lancaster's comments. He found it difficult to identify any findings for installing speed humps on 36<sup>th</sup> Avenue.

**Dorothy Snowhill**, 10218 SE 36<sup>th</sup> Avenue. She believed the City had afforded Providence Milwaukie Hospital precedents, and she summarized them. These were: no annual street closure to maintain private road status; violation of R-7 zoning by using 10263 SE 36<sup>th</sup> Avenue as the Option House; allowing oxygen storage tank adjacent to a residential neighborhood; non-compliance by not posting a "No Truck" sign at Dwyer Drive and 36<sup>th</sup> Avenue; allowing elimination of the five-foot sight obscuring easement and plantings; and allowing ambulances to use the auxiliary entrance in violation of the City's agreement with 36<sup>th</sup> Avenue property owners. She did not intend these comments to reflect negatively on the Hospital. The City did not ensure that changes in Hospital management was kept apprised of regulations.

**Snowhill** believed the five-block area on 36<sup>th</sup> Avenue suffered more than any other residential neighborhood in the City because of the Hospital and the skilled nursing

facility. She believed the City was more concerned about setting a precedent than it was about alleviating traffic concerns. She maintained that the City had established precedents for the Hospital.

**Ramis** advised the City Council that this would be a policy decision and not a legal decision.

**Councilor King** said she lives in that area and understands the problem.

**Councilor Kappa** understood the residents' concern, but he did not believe there were grounds for making an exception to NTMP policy.

**Snowhill** was concerned with precedents established in the past to benefit the Hospital. She pointed out that she had begun making the traffic calming request before the NTMP was adopted. This is the only street in Milwaukie that has hospital-related traffic. She cautioned that the City might be responsible for accidents particularly considering the number of children in the neighborhood. The Hospital has been willing to work with the residents, but the City has not.

**It was moved by Councilor Kappa and seconded by Councilor Lancaster to deny the request for speed bumps on 36<sup>th</sup> Avenue. Motion passed 2 – 1 with the following vote: Councilor Kappa and Councilor Lancaster aye; Councilor King nay.**

**Bartlett** said the City could look into the ambulance traffic issues but was concerned about the City's being responsible for increased travel time if emergency vehicles were required to use only 32<sup>nd</sup> Avenue.

## **25<sup>th</sup> Avenue Street Vacation -- Ordinance**

**Roeger** presented the staff report in which the City Council was requested to adopt the ordinance vacating SE 25<sup>th</sup> Avenue between SE Beta and SE Stubb Streets. City staff met with Phil Gagnier from ODOT and George Anderson, concerned property owner, to address the issues related to parking access if there were future development. Anderson wrote a letter to the City dated December 20, 1999, in which he stated he understood from Roeger that his concerns would be addressed in future development.

**Gagnier** said ODOT did not intend to sell the property in the near future, and the only development at this time might be to construct a pole building.

**Councilor Lancaster** asked Gagnier if ODOT would be agreeable to discussing development impacts in the event plans changed.

**Gagnier** understood from staff that some land might have to be dedicated to the City in future development.

**It was moved by Councilor King and seconded by Councilor Lancaster to read the ordinance vacating SE 25<sup>th</sup> Avenue between SE Beta and SE Stubb Streets for the first time by title only. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.**

**It was moved by Councilor Lancaster and seconded by Councilor King to read the ordinance vacating SE 25<sup>th</sup> Avenue between SE Beta and SE Stubb Streets for the second time by title only. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.**

**It was moved by Councilor Lancaster and seconded by Councilor King to adopt the ordinance vacating SE 25<sup>th</sup> Avenue between SE Beta and SE Stubb Streets. Motion passed unanimously among the members present.**

### **ORDINANCE NO. 1867:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE VACATING SE 25<sup>TH</sup> AVENUE BETWEEN SE BETA STREET AND SE STUBB STREET AND RESERVING EASEMENTS FOR VARIOUS UTILITIES AND PUBLIC TRANSPORTATION PURPOSES AND ALL ASSOCIATED EQUIPMENT AND FACILITIES NECESSARY FOR THE OPERATION THEREOF.**

### **Consider Reimbursement District -- Ordinance**

**Bennett** presented the staff report in which the City Council was requested to consider an ordinance that would authorize reimbursement districts for public improvements that would benefit other properties in the future. She recommended reading the ordinance for the first time by title only so staff could make the changes related to issues raised at the previous night's City Council work session. One of the questions Council posed had to do with the sixty-day limitation for legal action after the adoption of a resolution establishing a reimbursement district, and research indicated this was statutory.

**Councilor Lancaster** was concerned that property owners might be required to reimburse attorney for simple actions such as a filing.

**Bennett** responded that the City Council will consider each reimbursement district and review the related costs. The City Council will determine how much the developer will be compensated and what costs will be reimbursed. The process is relatively simple, so, unless the development is unusually complex, the developer will probably not need legal counsel.

**Councilor Lancaster** said he could support it on a case-by-case basis if there were detailed cost breakdowns.

**It was moved by Councilor King and seconded by Councilor Lancaster to read the ordinance amending the Milwaukie Municipal Code by adding Chapter 13.30, *Reimbursement Districts*, for the first time by title only. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.**

The second reading of the ordinance will be scheduled for January 18, 2000.

### **Delinquent Special Assessments**

**Gehlen** reviewed the process beginning with a letter explaining to the property owner that the assessment is due and owing within 30-days. Staff will discuss payment arrangements with the property owners.

**It was moved by Councilor Lancaster and seconded by Councilor King to adopt the resolution declaring the entire balance of delinquent special assessment account due and payable immediately. Motion passed unanimously among the members present.**

## **RESOLUTION NO. 4-2000:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE ENTIRE BALANCE OF DELINQUENT SPECIAL ASSESSMENT ACCOUNTS IMMEDIATELY DUE AND PAYABLE PURSUANT TO ORS 223.270.**

### **INFORMATION**

**Councilor Kappa** felt it was the time in the budget process to look at options for bringing roads up to acceptable service standards.

**Bartlett** said the Budget Committee would begin looking at Capital Improvement Plan (CIP) projects at the February 7 meeting. He added that staff was scheduling a City tour so Committee could get a first hand look at some of the needs. He discussed the 2000 elections calendar and double majority requirements. The City Council will ultimately have to prioritize projects and determine how many and at what levels it wants to fund improvements.

**Bartlett** announced the City Council would meet in executive session pursuant to ORS 192.660 immediately after adjournment of the regular session to discuss property acquisition.

### **ADJOURNMENT**

**It was moved by Councilor King and seconded by Councilor Lancaster to adjourn the meeting. Motion passed unanimously among the members present.**

**Councilor Kappa** adjourned the meeting at 7:40 p.m.

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Pat DuVal, Recorder